

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15344 of the Progressive National Baptist Convention, Inc., pursuant to 11 DCMR 3108.1, for a special exception under Section 358 to expand a youth residential care home from 15 to 20 residents and 3 staff in the basement through the third floor in an R-5-A District at premises 603 - 50th Street, N.E., (Square 5194, Lot 824).

HEARING DATE: July 25, 1990
DECISION DATE: September 5, 1990

FINDINGS OF FACT:

1. The subject site is known as premises 603 - 50th Street, N.E. It is located on the east side of 50th Street, N.E. and it is zoned R-5-A.

2. Boundaries of the site are Nannie Helen Burroughs Avenue to the north, Fitch Place to the south, Division Avenue to the east and 50th Street to the west. The site is located in a predominantly residential community where a variety of housing types are found. There is low density commercial development along Nannie Helen Burroughs Avenue. Also, located to the north of the site are Watts Branch Parkway and Grant Park - two open space areas owned by the federal government.

3. The site which is the subject of this application is one of three buildings located on the campus of the Nannie Helen Burroughs School. The building is a three-story brick structure that contains 15,000 square feet. For the past two years, the building has operated as a Youth Residential Care Home for 15 residents. Administrative offices are located on the first floor, living quarters are on the second floor and classes are held on the third floor of the building.

4. The operator of the facility, Health Management, Inc., leases the property from the applicant, Progressive National Baptist Convention, Inc. Residents are referred to the facility by the District of Columbia Department of Human Services (DHS). Health Management, Inc. currently has a per diem contract with the city and is awaiting approval from DHS for a longer contract.

5. The youth residential care home provides a comprehensive mental health program for emotionally disturbed adolescents also who are from the District of Columbia. The facility, which is self-contained, provides 24-hour service for its residents. Currently, the staff consists of 35 persons who work three shifts daily. The staff includes psychologists, social workers, special

education teachers, recreational and speech therapists, vocational counselors, a registered nurse and a nutritionist. Residents are provided with living, classroom, counseling, dining and recreation space. Two years is the average length of time residents live at the home.

6. The applicant proposes to increase the number of residents from 15 to 20. Also, the number of staff will be increased by three. The applicant maintains that there is adequate space to accomodate five additional residents and there is a need for the services provided at the facility.

7. A youth residential care home for five to 15 persons, not including resident supervisors and their families, is permitted as a matter-of-right in an R-5 District. However, Section 358 of the Zoning Regulations permits youth residential care homes for 16 to 25 persons as a special exception. Section 358 provides as follows:

358 YOUTH CARE HOMES AND COMMUNITY RESIDENCE FACILITIES (R-5)

- 358.1 Youth residential care home or community residence facility for sixteen (16) to twenty-five (25) persons, not including resident supervisors and their families, shall be permitted in an R-5 district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in Section 3108 of Chapter 31 of this title, subject to the provisions of this section.
- 358.2 There shall be no other property containing a community based residential facility for five (5) or more persons in the same square.
- 358.3 There shall be no other property containing a community based residential facility for five (5) or more persons within a radius of five hundred feet (500') from any portion of the subject property.
- 358.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 358.5 The proposed facility shall meet all applicable code and licensing requirements.
- 358.6 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

- 358.7 The Board may approve more than one (1) community based residential facility in a square or within five hundred feet (500') only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 358.8 The Board may approve a facility for more than twenty-five (25) persons, not including resident supervisors and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District of Columbia.
- 358.9 The Board shall submit the application to the Director of the Office of Planning for coordination, review, report, and impact assessment along with reports in writing of all relevant District departments and agencies, including but not limited to the D.C. Departments of Public Works, Human Services, and Corrections, and, if a historic district or historic landmark is involved, of the State Historic Preservation Officer.

8. There are no other properties containing a Community Based Residential Facility for five or more persons in the subject square, or within a radius of 500 feet from any portion of the site. Based on information obtained from the Office of Community Based Residential Facilities, dated December 1989, the CBRF nearest to the site is the Grant Park Care Center, located at 5000 Nannie Helen Burroughs Avenue, N.E. The Grant Park Care Center contains 296 beds.

9. A private driveway provides access onto the Nannie Helen Burroughs School campus. There are approximately 40 parking spaces located at the rear of the school for use by visitors and staff to the facility. The number of spaces is adequate for the proposed use.

10. The District of Columbia Department of Human Services, Office of Policy and Planning, by memorandum dated August 16, 1990, stated that it does not recommend approval of the application because it has been determined by the Department's Commissioner on Mental Health services that Health Management, Inc., (HMI), has failed to meet the Department's performance requirements. DHS stated that HMI failed to correct deficiencies in its provision of services and failed to maintain a safe environment for clients. Consequently, many of the clients residing in the home have been removed.

11. By memorandum dated August 17, 1990, the Commissioner for Mental Health Services informed the DHS, Office of Policy and Planning that it supports the application. The Commissioner stated that under the new contract being negotiated, HMI will be required to become accredited by the Joint Commission on Accreditation of Healthcare Organizations. Such accreditation will ensure compliance with the standards set by the Commission. If accreditation is not secured, no children will be placed in the facility.

12. Responding to the comments of DHS, by letter dated August 25, 1990, HMI stated that it has addressed the health and safety issues brought to its attention and they have been rectified. It was further stated that extensive improvements have been made on the facility and that HMI is in compliance with regulations governing residential facilities. Furthermore, the contract between DHS and HMI has been finalized.

13. The facility presently operates pursuant to a valid Certificate of Occupancy, No. B153792, dated May 19, 1988.

14. The buildings located on the school grounds are somewhat isolated. They are surrounded by generous open space and the public right-of-way. To the east of the campus, there are single and multi-family residential units. Trash is collected from the subject facility on a regular basis. All deliveries, including groceries, take place from the front of the building. The operator of the facility testified that no complaints have been received from neighbors about activities or operations at the facility.

15. The subject application has been referred to the Office of Planning and other appropriate governmental agencies.

16. By report dated July 18, 1990 and through testimony at the hearing, the Office of Planning (OP) expressed its support for the application. OP noted the location and the planned operations of the facility. OP indicated that the facility, which has been in operation for the last two years, has operated in harmony with the surrounding Lincoln Heights Community and has not created any adverse impacts because of noise, traffic, or its location in relationship to similar facilities in the area. OP further stated that the proposed increase in the number of residents and staff at the youth residential care home should not have any negative environmental or social impacts on nearby properties or on the surrounding community. In the opinion of the Office of Planning, the application is in compliance with the purpose and intent of the Zoning Regulations and Maps. Approval was therefore recommended.

17. The Department of Public Works (DPW), by memorandum dated July 18, 1990, noted that the youth care facility operates on a 24-hour basis with from six to ten staff members on the site at any

one time. There are approximately four visitors to the site weekly and some of the residents occasionally make weekend home visits. The applicant does not plan to change the level of services being provided due to the subject request.

DPW noted that the site is located on a private roadway system that is accessed from 50th Street. According to the applicant, at least 20 on-site parking spaces are available to the subject facility. In DPW's opinion the vehicular traffic circulation system appears adequate and the roadway is not in need of repair.

In light of the above factors, DPW concluded that the subject request should not have an additional impact on the traffic conditions that presently exist in the area. Therefore, from a transportation perspective, DPW has no objection to the application.

18. Advisory Neighborhood Commission (ANC) 7A did not file a written statement, nor did a representative from ANC 7A appear at the hearing to testify in the application.

19. No other person or entity appeared at the hearing to testify in support of, or in opposition to the application.

20. Eight letters of support were submitted into the record. No letters opposing the application were received from neighboring property owners.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicant is seeking a special exception to increase the number of residents and staff at a youth residential care home in an R-5-A District. The granting of such a special exception requires a showing through substantial evidence that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property. The applicable provisions of Section 358 regulating Youth Care Homes and Community Residence Facilities must also be met.

The Board concludes that the applicant has met the burden of proof established for the requested special exception. The Board concludes that youth care homes for up to 15 residents are permitted as a matter-of-right in R-5 Districts. Facilities for 16 to 25 residents are permitted with the special exception relief. In the Board's opinion, the proposed increase of five residents is insubstantial and the use of the property remains in harmony with the general purpose and intent of the Zoning Regulations and Maps.

The Board concludes that the operation of the facility will not tend to adversely affect the use of neighboring properties.

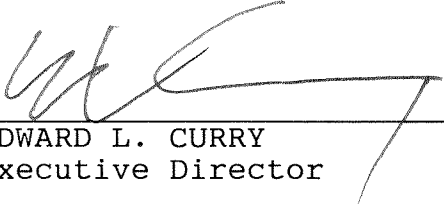
The Board further concludes that the application meets the provisions set forth in Chapter 23 and Section 358 of the Zoning Regulations. Accordingly, it is **ORDERED** that the application is **GRANTED SUBJECT** to the following **CONDITIONS**:

1. The youth residential care home shall not exceed 20 youths and a rotating staff of 35.
2. There shall be twenty off-street parking spaces provided to serve the home.
3. The home shall meet all applicable code and licensing requirements.

VOTE: 4-0 (John G. Parsons, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant, Paula L. Jewell not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: APR 19 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15344Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15344

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on APR 19 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

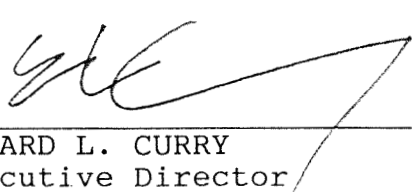
Maharajan M. Ponraj
603 - 50th Street, N.E.
Washington, D.C. 20019

Michael Osuri
413 Rock Lodge Road
Gaithersburg, Maryland 20877

Russau & Associates
Attn: Helen Sams
1029 Quincy Street, N.E.
Washington, D.C. 20017

Natalie Greene, Chairperson
Advisory Neighborhood Commission 7-D
Smothers School, Room 305
44th & Brooks Streets, N.E.
Washington, D.C. 20019

Reverend Tyrone S. Pitts
Progressive National Baptist Convention, Inc.
601 - 50th Street, N.E.
Washington, D.C. 20019



EDWARD L. CURRY
Executive Director

DATE: _____

APR 19 1991

15344Att/bhs